

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JENNIFER GATHRIGHT,)	
)	
Plaintiff,)	Case No.: 3:10-cv-01224
)	
vs.)	PLAINTIFF'S COMPLAINT
)	AND DEMAND FOR JURY TRIAL
USCB CORPORATION,)	
)	
Defendant.)	

VERIFIED COMPLAINT

JENNIFER GATHRIGHT, ("Plaintiff"), through the undersigned counsel, ALEX SIMANOVSKY & ASSOCIATES, LLC, alleges the following against USCB CORPORATION, ("Defendant"):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. (FDCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."

3. Defendant conducts business in the state of Texas, and therefore, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. 1391(b)(1).

5. Declaratory relief is available pursuant to 28 U.S.C. 2201 and 2202.

PARTIES

6. Plaintiff is a natural person residing in Lone Oak, Hunt County, Texas.

7. Plaintiff is a consumer as that term is defined by 15 U.S.C. 1692a(3), and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 U.S.C. 1692a(5).

8. Defendant is a debt collector as that term is defined by 15 U.S.C. 1692a(6), and sought to collect a consumer debt from Plaintiff.

9. Defendant is a national company, with its corporate office located at: USCB Corporation, 101 Harrison Street, Archbald, PA 18403-1961.

10. Defendant, in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

FACTUAL ALLEGATIONS

A. DEBT

11. The Defendant attempted to collect the Debt and, as such, engaged in “communications” as defined in 15 U.S.C. §1692a(2).

12. Plaintiff has repeatedly requested a verification letter detailing the facts of the alleged debt such as when it was incurred and to what creditor it is owed.

13. Defendant has yet to supply a verification letter or to provide any information concerning the alleged debt.

14. Plaintiff disputes the nature and legality of the alleged debt.

B. HARASSMENT AND ABUSIVE TACTICS

15. Defendant constantly and continuously places collection calls to Plaintiff seeking and demanding payment for the alleged debt.

16. Defendant calls Plaintiff from telephone number 570-876-6309 seeking and demanding payment for the alleged debt.

17. Defendant has caused Plaintiff's personal phone to ring and has engaged Plaintiff in telephone conversations repeatedly.

18. Beginning on or about April 2010, Defendant has continuously called Plaintiff approximately ten times a day.

19. Defendant calls Plaintiff on her cell number 214-794-8400 while she is working from home.

20. Defendant did not send Plaintiff a validation letter.

21. Defendant spoke with Plaintiff's daughter, Kelsey, disclosing existence of alleged debt.

22. Defendant spoke in a suggestive manner to Plaintiff's thirteen-year-old daughter.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

23. Defendant violated the FDCPA based on the following:

- a.) Defendant violated §1692c(a)(3) by repeatedly contacting Plaintiff at Plaintiff's place of employment even though Defendant knew that Plaintiff's employer prohibits the consumer from receiving such communications.
- b.) Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress, or abuse the Plaintiff in connection with the collection of a debt.

- c.) Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring repeatedly and continuously with the intent to annoy, abuse, and harass Plaintiff.
- d.) Defendant violated §1692c(a)(1) of the FDCPA by communicating with Plaintiff at such place and time known or which should have been known to be inconvenient to Plaintiff.
- e.) Defendant violated §1692b(1) of the FDCPA by contacting persons other than Plaintiff and failing to identify him/herself and failing to state the he/she is confirming or correcting location information concerning Plaintiff.
- f.) Defendant violated §1692b(2) of the FDCPA by stating that the Plaintiff owes a debt in communications with persons other than Plaintiff.
- g.) Defendant violated §1692g of the FDCPA by failing to send Plaintiff a validation notice within five days of the initial communication.
- h.) Defendant violated §1692g(b) of the FDCPA by continuing with collection attempts on the alleged debt before the debt has been validated.

WHEREFORE, Plaintiff, JENNIFER GATHRIGHT, respectfully requests judgment be entered against Defendant, USCB CORPORATION, for the following:

- a. Declaratory judgment that Defendant's conduct violated the Fair Debt Collection Practices Act,
- b. Statutory damages pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k,
- c. Actual damages,

- d. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k
- e. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, JENNIFER GATHRIGHT, demands a jury trial in this case.

This 22nd of June, 2010.

Respectfully submitted,

ALEX SIMANOVSKY & ASSOCIATES, INC.

/s/ Dave Lilley
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